

No. 9/5/84-6Lab./9384.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Rohtak in respect of the dispute between the workmen and the management of Haryana Roadways, Rohtak.

BEFORE SHRI B. P. JINDAL, PRESIDING OFFICER, LABOUR COURT, ROHTAK.

Reference Nos. 162 to 164 & 166 to 176 of 1982

*between*

S/SHRI SURESH KUMAR, BHAGWAN DASS, OM PARKASH, MOHAN SINGH, LILU, DHARAM VIR, GARIB DASS, ROHTASH, KARAN SINGH, CHANDI RAM, BABU RAM, PRITAM SINGH, ROHTASH S/O SHRI SURJIT AND SHRI MAM RAJ, WORKMEN AND THE MANAGEMENT OF HARYANA ROADWAYS, ROHTAK.

*Present :—*

Shri S.N. Vats, A.R. for the workmen.

Shri S.C. Singla, L.A. for the management.

#### AWARD

1. In exercise of the powers conferred by clause (c) of sub section (1) of section 10 of the Industrial Disputes Act, 1947, the Governor of Haryana referred the following dispute between the workmen S/Shri Suresh Kumar, Bhagwan Dass, Om Parkash, Mohan Singh, Lilu, Dharam Vir, Garib Dass, Rohtash, Karan Singh, Chandi Ram, Babu Ram, Pritam Singh, Rohtash, s/o Shri Surjit and Shri Mam Raj and the management of Haryana Roadways, Rohtak to this Court for adjudication,—vide Labour Department Gazette Notification numbers ID/RTK/68/82/39732, ID/RTK/67/82/39739, ID/RTK/66/82/39746, ID/RTK/70/82/39760, ID/RTK/72/82/39767, ID/RTK/73/82/39774, ID/RTK/71/82/39781, ID/RTK/79/82/39788, ID/RTK/80/82/39795, ID/RTK/78/82/39802, ID/RTK/77/82/39809, ID/RTK/76/82/39816, ID/RTK/75/82/39825 and ID/RTK/74/82/39830, dated 25th August, 1982 :—

Whether the termination of services of Shri Suresh Kumar, Bhagwan Dass, Om Parkash, Mohan Singh, Lilu, Dharamvir, Garib Dass, Rohtash, Karan Singh, Chandi Ram, Babu Ram, Pritam Singh, Rohtash, s/o Shri Surjit and Shri Mam Raj was justified and in order? If not, to what relief are they entitled?

2. Since common question of law and facts were involved in reference bearing numbers 162 to 164 and 166 to 176 all of 1982 were ordered to be consolidated for disposal by my learned predecessor Shri I.S. Dhull,—vide order, dated 16th March, 1983. He further directed that the proceedings shall be recorded in reference number 162 of 1982.

3. On receipt of the order of references, notices were issued to the parties. The parties appeared. The common case of the workman is that they were employed as sweepers, some in the year 1976, a few in the year 1977 and only two Shri Bhagwan Dass and Shri Chandi Ram in the year 1979 and that their services were terminated by the respondent without any rhyme or reason on 1st March, 1982, in flagrant disregard of the provisions of the Industrial Disputes Act, 1947.

4. Separate detailed written statements have been filed by the respondent. The refrain of the same is that the workmen were employed as Sweepers with the Haryana Roadways Rohtak on different dates at the rate fixed by the Deputy Commissioner, Rohtak but their services were liable to be terminated at any time without any prior notice. It is further alleged that 21 post of sweepers were sanctioned by the State Transport Controller, Haryana, Chandigarh, on yearly basis and sanction for these post was not accorded after 28th February, 1981, though efforts were made by the General Manager, Haryana Roadways, Rohtak, to obtain sanction but ultimately State Transport Controller Haryana,—vide his order dated 30th July, 1981 sanctioned these posts for the period 1st July, 1981 to 28th February, 1982. So, the workmen were again employed for these posts by the General Manager, Haryana Roadways, Rohtak,—vide his order dated 31st July, 1981 for a fixed period from 1st August, 1981 to 28th February, 1982 and as no further sanction was coming forth for these posts from the State Transport Controller, Haryana services of the workman were terminated after 28th February, 1982. It is further alleged that the workman had not completed on year of continuous service on the date their services were terminated.

5. In the case of Shri Suresh Kumar workman it is alleged that after his appointment on 24th December, 1975 his services were terminated on 26th October, 1980 but after conciliation proceedings before the Labour cum-Conciliation Officer he was again appointed from 1st August, 1981 to 28th February, 1982 after which date he was not kept in employment, because no sanction for his post was forthcoming from the State Transport Controller, Haryana.

6. In the replication, filed by the workmen, they have controverted the various pleas taken by the respondent.

7. On the pleadings of the parties, the following issue was settled for decision in all the references on 16th March, 1983 :—

1. Whether the termination of services of the workman was justified and in order ? If not, to what relief is he entitled ?

8. The management examined MW-1 Shri Ramesh Chander, clerk, Haryana Roadways Rohtak, and one of the workman Shri Chandi Ram appeared as WW-1. I have heard learned Authorised Representative of the workman Shri S.N. Vats and Shri S.C. Singla, learned Legal Adviser of the Roadways. My findings on the issue framed are as below :

9. As per the chart Ex. MW-1/4 furnished by the respondent, the present workmen were appointed as under :—

Serial No.	Name of the officials	Date of appointment
	S/Shri	
1	Suresh Kumar	24th December, 1976
2	Karan Singh	Do
3	Rohtas s/o Shri Surjit Singh	Do
4	Mam Raj	12th February, 1977
5	Babu Ram	Do
6	Mohan Singh	Do
7	Garib Dass	Do
8	Om Parkash	Do
9	Dharam Vir	Do
10	Rohtas s/o Matia Ram	Do
11	Lilu Ram	22nd October, 1977
12	Pritam Singh	13th December, 1977
13	Bhagwan Dass	6th August, 1979
14	Gandhi Ram	6th August, 1979

However, their date of termination is the same i.e. 28th February, 1982. It is also not in dispute that the services of the workmen were terminated on 30th June, 1981. Copy of the order is Ex. MW-1/1. They were appointed again,—vide order dated 31st July, 1981, copy of the order is Ex. MW-1/3. So, the spinal contention raised on behalf of the respondent was that the appointment made on 31st July, 1981 was a *de hove* appointment after a break of two months in the services of the workmen and as such the workmen cannot claim benefit of the previous service put in by them with the respondent and as such the respondent was well within the ambit of law in dispensing with the services of the workmen in view of the proviso appended to clause A of section 25 F of the Industrial Disputes Act, 1947, though the said proviso has since omitted by Act number 49 of 1984 and a similar proviso with slight varification in wording has been inserted as sub-clause (bb) of section 2(oo) of the Industrial Disputes Act, 1947. The clause A since omitted, contemplated a clear and unambiguous agreement between the employer and the employee specifying a definite and firm date in the matter of termination of services of the workmen. The said clause can have no application to the facts of the present case, because there was no agreement between the workmen and the respondent regarding their alleged fixed tenure of employment. It was an order of the General Manager, Haryana Roadways Rohtak, regarding appointment of the workmen for a fixed period i.e. 1st August, 1981 to 28th February, 1982. Concurrence of the workmen to the said fixed tenure of employment was not obtained and could not have been obtained because sanction for the posts was given by the State Transport Controller, Haryana, Chandigarh, for the said period only. So the proviso appended to clause A of section 25-F of the Industrial Disputes Act, 1947 (since omitted) cannot be pressed into service by the respondent to succour the contention that the tenure of the workmen was for fixed



period under an agreement between the parties and as such the authority cited on behalf of the respondent reported in 1984 Lab. I.C. 1264 Sarjag Parshad v/s State of Bihar and others can have no application to the facts of the present case, though Shri S.C. Singla, learned Legal Adviser of the respondent tried to twist this contention to bring the same in consonance with the law laid down in this authority.

10. All the workmen in this case had put in more than 240 days of service with respondent on the date, their services were terminated i.e. 28th February, 1982, even if the period of break from 1st July, 1981 to 31st July, 1981 is excluded, because the workmen remained unemployed during this period. It is on record that all the workmen were in the employment of the respondent for the last more than three years and their services were continuous up to 30th June, 1981 on which date they were thrown out of employment for a brief period of two months, because they were again appointed on 1st August, 1981 to 28th February, 1982. So, all the workmen had put in more than 240 days of service with the respondent during the last 12 calendar months from the date their services were terminated and as such the provision of section 25-F of the Industrial Disputes Act, 1947, come into play and the respondent could not have disposed with the services of the workman without giving them the benefits of said section, which admittedly was not done by the respondent and as such this Court has no alternative but to strike down the order of termination while holding the same to be unsustainable in the eyes of law. So, this issue in its entirety goes in favour of the workman.

11. In the light of my foregoing discussion, order of termination of all the workmen is set aside being *void ab initio* as the same was based in gross violation of the provisions of section 25-F of the Industrial Disputes Act, 1947, and as such all the workmen are ordered to be reinstated forthwith with continuity of service and with full back wages. So, reference numbers 162 to 164 & 166 to 176 all of 1982 are answered and returned accordingly. There is no order as to cost.

Dated 17th December, 1984.

B. P. JINDAL  
Presiding Officer,  
Labour Court, Rohtak.

Endst No. 162—164, 166—176/82/3835 dated 20th December, 1984.

Forewarded (four copies) to the Secretary to Government Haryana, Labour & Employment Departments, Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

B. P. JINDAL,  
Presiding Officer,  
Labour Court, Rohtak.

No. 9/5/84-6 Lab/9385.—In pursuance of the provisions of Section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947) the Governor of Haryana is pleased to publish the following award of the Presiding Officer Labour Court, Rohtak in respect of the dispute between the workman and the management of Secretary, Haryana State Electricity Board, Chandigarh.

BEFORE SHRI B.P. JINDAL, PRESIDING OFFICER, LABOUR COURT, ROHTAK

Reference No. 199 of 82.

between

SHRI SURAJ BHAN "OP" WORKMAN AND THE MANAGEMENT OF SECRETARY, HARYANA STATE ELECTRICITY BOARD, CHANDIGARH.

Present :—

Shri M. S. Rathi, A. R. for the workman.

None for the respondent.

#### AWARD

1. In exercise of the powers conferred by clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947, the Governor of Haryana, referred the following dispute, between the workman Shri Suraj Bhan "OP" and the management of Secretary Haryana State Electricity Board, Chandigarh, to this Court, for adjudication,—vide Labour Department Gazette Notification No. ID/SPT/101/82 dated 8th October, 1982 :—

Whether the termination of service of Shri Suraj Bhan was justified and in order? If not, to what relief is he entitled?

2. After receipt of the order of reference, notices were issued to the parties. The parties appeared. The case of the workman is that he was in the employment of the respondent since April, 1979 on a permanent post as Assistant Lineman in Operation Sub-Division Gohana and his monthly wages were Rs. 598.60 after deduction of Provident Fund and that he suffered an accident on 24th April, 1980 during the course of his employment and suffered 50% permanent disability and that the respondent did not pay compensation. The plaintiff filed a claim before the Commissioner Workman's Compensation, Sonapat and the compensation was paid to him, which angered the respondent and the respondent did not allow the workman to resume his duty, though many disabled workers were still in the employment of the respondent and that his termination is illegal, discriminatory, vindictive and against the provisions of the Industrial Disputes Act, 1947.

3. Initially the respondent appeared and filed a reply contesting the case of the applicant. It was alleged that the claim petition is pre-mature and that the workman has no existing right to file the same.

4. On merits, it is alleged that the workman suffered accident because of his own negligance and carelessness. There is no categorical denial that the services of the workman have not been terminated.

5. Later on the management absented and an *ex parte* proceedings order was passed against the management by me on 3rd August, 1984.

6. In *ex parte* evidence the workman appeared as his own witness as WW-1 and made a statement completely in corroboration of the allegations made in the claim statement and so, I would avoid repetition. I see no reason to disbelieve unrebutted testimony of the workman and find that the termination of the workman was illegal and unlawful and as such the workman is ordered to be reinstated forthwith with continuity of service and with full back wages. Before pertaining with this reference, I would like to observe that I have been the workman in Court. The left hand of the workman is partly disabled but the movement of the fingers is there. The respondent board is advised to put the workman on such a duty where he can work efficiently with one hand only and the movement of the left hand is not much involved. The reference is answered and returned accordingly. There is no order as to cost.

Dated 18th December, 1984.

B. P. JINDAL,  
Presiding Officer,  
Labour Court, Rohtak,  
Camp Court, Sonapat.

Endst. No. 199/82/13836, dated 20th December, 1984.

Forwarded (four copies) to the Secretary to Government Haryana, Labour & Employment Departments, Chandigarh as required section 15 of the Industrial Disputes Act, 1947.

B. P. JINDAL,  
Presiding Officer,  
Labour Court Rohtak,  
Camp Court, Sonapat.

No. 9/5/84-6Lab/9386.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947) the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Rohtak in respect of the dispute between the workmen and the management of (i) M/S Director of Estates, H.S.E.B Vidyut Nagar, Hissar (ii) M/s Estate Officer, HSEB, Vidyut Nagar, R.N. 142/IV, Hissar.

BEFORE SHRI B. P. JINDAL, PRESIDING OFFICER, LABOUR COURT, ROHTAK

Reference No. 63 of 83

between

SHRI MANGE RAM, WORKMAN AND THE MANAGEMENT OF M/S (i) DIRECTOR OF ESTATES H.S.E.B., VIDYUT NAGAR, HISSAR. (ii) ESTATE OFFICER, H.S.E.B. VIDYUT NAGAR R.N. 142/IV HISSAR

Present :

Shri T.C. Gupta A.R. for the workman.

Shri Jaspal Singh Law Officer for the respondent.



## AWARD

1. In exercise of the powers conferred by clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947, the Governor of Haryana, referred the following dispute, between the workman Shri Mange Ram and the management of M/s. (i) Director of Estates, HSEB, Vidyut Nagar, Hissar (ii) Estate Officer, HSEB, Vidyut Nagar R.B. 142/IV, Hissar, to this Court, for adjudication,—vide Labour Department Gazette Notification No. ID/HSR/104-82/22535—39 dated 12th May, 1983:—

Whether the termination of service of Shri Mange Ram was justified and in order? If not, to what relief is he entitled?

2. On receipt of the order of reference, notices were issued to the parties. The parties appeared. The workman alleged that he was appointed as Carpenter by the respondent on 17th July, 1980 and worked as such up to 18th March, 1982 upon which date the respondent choose to terminate his services in flagrant disregard of the provisions of section 25.F of the Industrial Disputes Act, 1947.

3. A detailed reply was filed by the respondent controverting the claim of the petitioner. The preliminary pleas projected are that the reference is not maintainable in the present from as the respondent is a juristic person within the meaning of section 12 of the Electricity Supply Act, 1948 and that the respondents are not legal entity and further no cause of action has accrued in favour of the workman, who is not a workman as defined in section 2 (s) of the Industrial Disputes Act, 1947.

4. On merits, it is alleged that the applicant was working as a daily wager w.e.f. 17th July, 1980 and he was being paid wages of the days worked and that he was transferred to the office of the Estate Officer Xen, Civil Works Division, Narwana on 28th February, 1982, who worked there from 2nd March, 1982 to 7th March, 1982 and 13th March, 1982 to 19th March, 1982 and that the workman absented w.e.f. 20th March, 1982. So, it is alleged that the respondent never terminated the services of the workman as alleged, who abandoned his employment of his own.

5. On the pleading of the parties the following issue was framed for decision on 30th July, 1984:—

1. Whether the termination of service of Shri Mange [Ram] was justified and in order? If not, to what relief is he entitled?

6. The management examined MW-1 Shri P.C. Agrawal, S.D.O. and the workman appeared as his own witness as WW-1. I have heard the learned Authorised Representatives of the parties. My findings on the issue framed are as below:—

## Issue No. 1

7. To prove this issue on behalf of the management, statement of MW-1 Shri P.C. Agrawal, S.D.O. has been relied upon. He stated that the workman worked under him from 2nd March, 1982 to 7th September, 1982 and 13th March, 1982 to 19th March, 1982 as carpenter class II and thereafter 19th March, 1982, the workman absented of his own and that his services were never terminated. He also placed on record a photo copy of the muster roll Ex. MW-1/I. Therein the workman has been marked absent from duty w.e.f. 20th March, 1983. I see no reason to disbelieve the statement of a gazetted officer of the respondent department, who has placed on record a photo copy of the muster roll evidencing that the workman absented himself after 19th March, 1982, though not on record it was orally contended by the learned Law Officer of the respondent that the workman did not like to be dislodged from Hissar and as such he deliberately absented himself from his duties at Narwana. After the completion of construction work in Vidyut Nagar, Hissar on compassionate grounds Xen Narwana was requested to absorb the workman lest he be thrown out of employment. The Executive Engineer, Civil Works Division, Narwana also addressed a letter to the Superintending Engineer, HSEB, Hissar regarding absence of the workman from duty w.e.f. 20th March, 1982. All these documents could not have been concocted by the respondent department in anticipation of any reference to the Labour Court. It seems that the workman of his own abandoned his employment but happily he has since been taken back by the respondent and the workman has joined his duties. But it is difficult to hold from the evidence on record that the services of the workman were terminated by the respondent. So, this issue goes against the workman.

8. In the light of my foregoing discussion, I find that the services of the workman were never terminated by the respondent and as such the workman is not entitled to any relief. The reference is answered and returned accordingly. There is no order as to costs.

Dated 12th December, 1984.

B. P. JINDAL,  
Presiding Officer,  
Labour Court, Rohtak.

Endst. No. 63/83/3834, dated 20th December, 1984

Forwarded (four copies) to the Secretary to Government Haryana, Labour & Employment Departments, Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

B. P. JINDAL,  
Presiding Officer,  
Labour Court, Rohtak.